

1 **STATE OF IOWA**
2 **BOARD OF EDUCATIONAL EXAMINERS**
3 **Grimes State Office Building – 400 East 14th Street**
4 **Des Moines, Iowa 50319-0147**

5
6 **Minutes**

7
8 **November 19, 2010**
9

10 The Board of Educational Examiners held its monthly meeting on November 19, 2010.
11 Board Chair, Dr. Greg Robinson, called the meeting to order. Members attending were
12 Julio Almanza, Tammy Duehr, Merle Johnson, Oscar Ortiz, Liz Sheka, Laura Stevens,
13 Carol Trueg and Richard Wortmann. Also in attendance was Dr. George Maurer,
14 Executive Director of the Board and Julie Bussanmas, Assistant Attorney General.
15 Kevin Fangman and Dr. Bev Smith were unable to attend. Note: Liz Sheka left the
16 meeting at 1:15 p.m. due to a prior commitment.

17
18 Merle Johnson moved, with a second by Julio Almanza, to approve the agenda.

19 **MOTION CARRIED UNANIMOUSLY.**

20
21 Richard Wortmann moved, with a second by Merle Johnson, to approve the consent
22 agenda. **MOTION CARRIED UNANIMOUSLY.**

23
24 Laura Stevens moved, with a second by Tammy Duehr , that the Board go into closed
25 session for the purposes of discussing whether to initiate licensee disciplinary
26 proceedings and discussing the decision to be rendered in a contested case, pursuant
27 to Iowa Code sections 21.5(1)(d) and 21.5(1)(f). Roll call vote: Almanza – yes; Duehr –
28 yes; Johnson – yes; Ortiz – yes Robinson – yes; Sheka – yes; Stevens – yes; Trueg –
29 yes; Wortmann - yes. **MOTION CARRIED.**

30
31 Laura Stevens moved, with a second by Tammy Duehr, that in **case number 09-63**,
32 the Board find that, although one or more of the allegations in the complaint may be
33 substantiated by the witnesses interviewed in the course of the investigation [and/or]

1 the documents gathered in the course of the investigation, and the allegations may
2 constitute a technical violation of the board's statute or administrative rules; the
3 evidence before the board indicates that the alleged violation was an isolated incident
4 and adequate steps have been taken to remedy the violation and to ensure that
5 incidents of a similar nature do not occur in the future. **MOTION CARRIED**
6 **UNANIMOUSLY.**

7
8 Tammy Duehr moved, with a second by Oscar Ortiz, that in case number 10-29, the
9 Board find that, although one or more of the allegations in the complaint may be
10 substantiated by the witnesses interviewed in the course of the investigation (and/or)
11 the documents gathered in the course of the investigation, and the allegations may
12 constitute a technical violation of the board's statute or administrative rules; the
13 evidence before the board indicates that the violation does not rise to the level for the
14 board to take final action. The Board therefore lacks probable cause to proceed with
15 this matter. **MOTION CARRIED UNANIMOUSLY.**

16
17 Oscar Ortiz moved, with a second by Laura Stevens, that in case number 10-35, the
18 Board finds that the evidence gathered in the investigation, including witness
19 statements and the documentary evidence, does not substantiate the allegations in the
20 complaint, and that the Board therefore lacks probable cause to proceed with this
21 matter. **MOTION CARRIED UNANIMOUSLY.**

22
23 Laura Stevens moved, with a second by Julio Almanza, that in case number 10-41,
24 the Board find probable cause to establish a violation of the following provisions of the
25 Code of Professional Conduct and Ethics, 282 IAC 25.3(1)b 1 and order this case set
26 for hearing. Roll call vote: Almanza – yes; Duehr – recused; Johnson – yes; Ortiz – yes
27 Robinson – yes; Sheka – yes; Stevens – yes; Trueg – yes; Wortmann - yes. **MOTION**
28 **CARRIED.**

1 Julio Almanza moved, with a second by Tammy Duehr, that in **case number 10-42**,
2 the Board find probable cause to establish a violation of the following provisions of the
3 Code of Professional Conduct and Ethics, 282 IAC 25.3(1) c, d, e (3) and (4), and order
4 this case set for hearing. **MOTION CARRIED UNANIMOUSLY.**

5
6 Laura Stevens moved, with a second by Julio Almanza, that in **case number 10-47**,
7 while the Board has concerns about the allegation the Board finds that the evidence
8 gathered in the investigation including witness statements and the documentary
9 evidence does not substantiate the allegations in the complaint and the Board
10 therefore lacks probable cause to proceed with this matter. **MOTION CARRIED**
11 **UNANIMOUSLY.**

12
13 Tammy Duehr moved, with a second by Julio Almanza, that in **case number 10-48**,
14 the Board find probable cause to establish a violation of the following provisions of the
15 Code of Professional Conduct and Ethics, 282 IAC 25.3(1) e (4), and order this case
16 set for hearing. **MOTION CARRIED UNANIMOUSLY.**

17
18 Tammy Duehr moved, with a second by Julio Almanza, that in **case number 10-52**,
19 the Board find probable cause to establish a violation of the following provisions of the
20 Code of Professional Conduct and Ethics, 282 IAC 25.3(4)b 25.3(6)d, and m, and
21 order this case set for hearing. **MOTION CARRIED UNANIMOUSLY.**

22
23 Laura Stevens moved, with a second by Tammy Duehr, that in **case number 10-55**,
24 the Board find probable cause to establish a violation of the following provisions of the
25 Code of Professional Conduct and Ethics, 282 IAC 25.3(5), and order this case set for
26 hearing. Roll call vote: Almanza – recused; Duehr – yes; Johnson – yes; Ortiz – yes
27 Robinson – yes; Sheka – yes; Stevens – yes; Trueg – yes; Wortmann – yes. **MOTION**
28 **CARRIED.**

29
30 Tammy Duehr moved, with a second by Oscar Ortiz, that in **case number 09-80**, the
31 Board accept the Respondent's waiver of hearing and voluntary surrender and that the

1 Board issue an order permanently revoking the Respondent's license with no possibility
2 of reinstatement. **MOTION CARRIED UNANIMOUSLY.**

3
4 Laura Stevens moved, with a second by Julio Almanza, that in **case number 10-50**, the
5 Board accept the Respondent's waiver of hearing and voluntary surrender and that the
6 Board issue an order permanently revoking the Respondent's license with no possibility
7 of reinstatement. **MOTION CARRIED UNANIMOUSLY.**

8
9 Tammy Duehr moved, with a second by Laura Stevens, that **In the Matter of Travis**
10 **Kliewer**, the Board accept the Respondent's waiver of hearing and voluntary
11 surrender and that the Board issue an order permanently revoking the Respondent's
12 license with no possibility of reinstatement. **MOTION CARRIED UNANIMOUSLY.**

13
14 Laura Stevens moved, with a second by Tammy Duehr, that in **case number 09-57**,
15 **In the Matter of Susan Peterson**, the Board accept the proposed decision with the
16 modification to change the length of the suspension to three years due to the fact that
17 this was not the first infraction of this kind and that she taught for over two years
18 without a license even seven months after notification. **MOTION CARRIED**
19 **UNANIMOUSLY.** (Beth Myers, Attorney/Investigator and Julie Bussanmas,
20 Assistant Attorney General, recused themselves and did not participate in the
21 discussion of this case.)

22
23 Julio Almanza moved, with a second by Tammy Duehr, that in **case 10-09, In the**
24 **Matter of Brian Rodemeyer** the board accepts the proposed decision but sends back
25 the recommended sanctions of the ALJ for further review as noted in the proposed
26 decision for the following reasons: as noted on page 9, the third paragraph, "The
27 preponderance of the evidence established that Respondent violated 282 IAC
28 25.3(5)(a)(5) and 25.3(6)(m) and (o) when he executed a written professional
29 employment contract to perform the duties of the superintendent for Ventura
30 Community School District and when he assumed and performed the duties of
31 superintendent when he did not have the required licensure. Respondent admits that
32 he signed a contract to perform the duties as superintendent and further admits that
33 he performed the duties of a superintendent for approximately seven months when he

1 did not have the appropriate licensure.” The sanction proposed is not in line with the
2 expectations of our education community nor of the accountability required in our
3 profession especially of the administrator assigned to lead this organization. In
4 addition, we move that the Respondent shall be required to take an ethics course
5 including necessary professional issues of licensure. **MOTION CARRIED**

6 **UNANIMOUSLY.** (Beth Myers, Attorney/Investigator, George Maurer, Executive
7 Director and Julie Bussanmas, Assistant Attorney General, recused themselves and
8 did not participate in the discussion of this case.)
9

10 Tammy Duehr moved, with a second by Laura Stevens, that the Board not initiate
11 review of the proposed decision in **case number 09-45, In the Matter of Karianne**
12 **Tharaldson**, and allow the proposed decision to become the final decision of the Board
13 unless an appeal is taken by one of the parties within the time allowed by rule.

14 **MOTION CARRIED UNANIMOUSLY.** (Beth Myers, Attorney/Investigator and Julie
15 Bussanmas, Assistant Attorney General, recused themselves and did not participate in
16 the discussion of this case.)
17

18 Laura Stevens moved, with a second by Julio Almanza, that the Board not initiate
19 review of the proposed decision in **case number APP 10-01, In the Matter of Brenda**
20 **Croghan**, and allow the proposed decision to become the final decision of the Board
21 unless an appeal is taken by one of the parties within the time allowed by rule.

22 **MOTION CARRIED UNANIMOUSLY.** (Beth Myers, Attorney/Investigator and Julie
23 Bussanmas, Assistant Attorney General, recused themselves and did not participate in
24 the discussion of this case.)
25

26 Laura Stevens moved, with a second by Oscar Ortiz, to extend the 180-day deadline
27 for issuance of the final decision in **case numbers 10-34, 10-36, 10-39, 10-42,**
28 **10-43 and 10-44** based upon the extraordinary amount of time needed to schedule
29 the hearing, allow review of the proposed decision and issue a final decision. **MOTION**
30 **CARRIED UNANIMOUSLY.**
31

32 Laura Stevens moved, with a second by Oscar Ortiz, to extend the 180-day deadline
33 for issuance of the final decision in **case number 10-41** based upon the extraordinary

1 amount of time needed to schedule the hearing, allow review of the proposed decision
2 and issue a final decision. Roll call vote: Almanza – yes; Duehr – recused; Johnson –
3 yes; Ortiz – yes Robinson – yes; Sheka – yes; Stevens – yes; Trueg – yes; Wortmann -
4 yes. **MOTION CARRIED.**

5
6 Board Reports:

7 Merle Johnson wished those on the board, and the staff of the Board of Educational
8 Examiners, a happy holiday season.

9
10 Oscar Ortiz shared a picture of his first grandchild.

11
12 Public Comment:

13 Doug Graber, Superintendent of Morning Sun Community School District, addressed
14 the board on behalf of one of his teachers, Sandy McElhinney, who applied for a
15 waiver.

16
17 Pete Hathaway from Morningside College spoke regarding three waiver requests from
18 the Teacher Intern Program.

19
20 George and Ileen Ensley addressed the board regarding Chapter 25: Code of Ethics—
21 Tutoring and the definition of “solicitation.”

22
23 Executive Director’s Report:

24 Dr. Maurer asked for the Board to approve the use of iPads. The iPads will be for the
25 board members to access the board packet. The purchase of iPads will be a cost
26 savings (less paper) and allow more efficiency in preparing the board packets. The
27 purchase of the iPads would not cause an increase in licensure fees. After the iPads
28 are received, Dr. Maurer will notify board members and we will arrange for an
29 inservice at an upcoming meeting.

30
31 Dr. Maurer presented the financial report.

1 A letter from the State of Tennessee State Board of Education was shared regarding
2 leadership licensure reciprocity for administrators in their state.

3
4 There have been past discussions regarding practitioners displaying their licenses.
5 This will be discussed again at an upcoming meeting.

6
7 BEDS Report: There are approximately 146 not properly endorsed errors and 50
8 licenses that have expired. From these, there will be approximately 8-12 complaints
9 filed because practitioners will not resolve their licensing issue.

10
11 IASB Convention: Dr. Maurer and Beth Myers, Attorney/Investigator, presented at the
12 IASB Convention on November 18, 2010.

13
14 A "Facebook Helpful Hints" document which we received from ISEA was given to the
15 Board for them to share with their staff/district.

16
17 Rules:

18 Richard Wortmann moved, with a second by Merle Johnson, to file under Notice of
19 Intended Action, the proposed change to Chapter 20.14 Timely renewal. **MOTION**
20 **CARRIED UNANIMOUSLY.**

21
22 Richard Wortmann moved, with a second by Merle Johnson, to file under Notice of
23 Intended Action, the proposed change to Chapter 27.6 Timely renewal. **MOTION**
24 **CARRIED UNANIMOUSLY.**

25
26 Carol Trueg moved, with a second by Merle Johnson, to file under Notice of Intended
27 Action, the proposed change to Chapter 13.18 Professional Core. **MOTION CARRIED**
28 **UNANIMOUSLY.**

29
30 Carol Trueg moved, with a second by Merle Johnson, to file under Notice of Intended
31 Action, the proposed change to Chapter 18.5 Specific requirements for a professional
32 administrator license. **MOTION CARRIED UNANIMOUSLY.**

1 Julio Almanza moved, with a second by Carol Trueg, to file under Notice of Intended
2 Action, the proposed change to Chapter 20.9 Specific requirements for an
3 administrator license. **MOTION CARRIED UNANIMOUSLY.**

4
5 Oscar Ortiz moved, with a second by Julio Almanza, to file under Notice of Intended
6 Action, the proposed change to Chapter 13.7 Specific requirements for a standard
7 license. **MOTION CARRIED UNANIMOUSLY.**

8
9 Greg Robinson moved, with a second by Julio Almanza, to file under Notice of
10 Intended Action, the proposed change to Chapter 18.7 Specific requirements for a
11 Class A license. **MOTION CARRIED UNANIMOUSLY.**

12
13 Items for Discussion:

14 The proposed changes to Chapter 18.8 Specific requirements for a Class B license
15 were discussed and will be brought back for further discussion.

16
17 The proposed changes to Chapter 22.3 School Business Official Authorization were
18 discussed and will be brought back to the January meeting for noticing.

19
20 The proposed change to Chapter 13.11 Specific requirements for a Class B license was
21 discussed and will be brought back to the January meeting for noticing.

22
23 Petitions for Waiver:

24 Greg Robinson moved, with a second by Carol Trueg, that in **PFW 10-24**, Christopher
25 Schwerin, the Board grant the Petition for Waiver. Roll call vote: Almanza – no;
26 Duehr – yes; Johnson – yes; Ortiz – no; Robinson – yes; Stevens – yes; Trueg – yes;
27 Wortmann - yes. **MOTION CARRIED.**

28
29 Greg Robinson moved, with a second by Laura Stevens, that in **PFW 10-27**, Jeffery
30 Huber, the Board grant the Petition for Waiver. Roll call vote: Almanza – no; Duehr –
31 yes; Johnson – yes; Ortiz – no; Robinson – yes; Stevens – yes; Trueg – yes; Wortmann -
32 yes. **MOTION CARRIED.**

1 Merle Johnson moved, with a second by Oscar Ortiz, that in **PFW 10-28**, Douglas
2 Durre, the Board grant the Petition for Waiver. **MOTION CARRIED UNANIMOUSLY.**

3
4 Merle Johnson moved, with a second by Carol Trueg, that in **PFW 10-29**, Diane
5 Harness, the Board grant the Petition for Waiver. Roll call vote: Almanza – yes;
6 Duehr – yes; Johnson – yes; Ortiz – yes; Robinson – no; Stevens – yes; Trueg – yes;
7 Wortmann – yes. **MOTION CARRIED.**

8
9 Merle Johnson moved, with a second by Carol Trueg, that in **PFW 10-30**, Robert Trier,
10 the Board deny the Petition for Waiver. Reasons for denial: Within his Petition for
11 Waiver, Mr. Trier stated that he lost his non-education related job and would like to
12 obtain a paid internship as a school guidance counselor. The Board regrets that Mr.
13 Trier will lose his job but stated that many people have also lost jobs in education.
14 They did not feel this was a justification for a waiver of the rules. There was no letter
15 of support provided by a school district that wished to hire Mr. Trier. The Board
16 indicated that they rely on the approval process of the Iowa preparation programs and
17 trust their judgment based on multiple assessments in recommending an applicant for
18 a license. If Drake University has rules regarding the recommendation for a Class G
19 license, the Board wishes to validate those rules. However, they did not receive any
20 documentation from Drake University indicating the reason Drake would not
21 recommend Mr. Trier for the Class G license was because of one certain grade.
22 **MOTION CARRIED UNANIMOUSLY.**

23
24 Greg Robinson moved, with a second by Merle Johnson, that in **PFW 10-31**, Sandy
25 McElhinney, the Board grant the Petition for Waiver. Roll call vote: Almanza – no;
26 Duehr – yes; Johnson – yes; Ortiz – yes; Robinson – yes; Stevens – yes; Trueg – yes;
27 Wortmann – yes. **MOTION CARRIED.**

28
29 Carol Trueg moved, with a second by Greg Robinson, that in **PFW 10-32**, David Etzel,
30 the Board grant the Petition for Waiver. Roll call vote: Almanza – no; Duehr – yes;
31 Johnson – yes; Ortiz – no; Robinson – yes; Stevens – yes; Trueg – yes; Wortmann – yes.
32 **MOTION CARRIED.**

1 Reports/Approvals:

2 The Legislative Reception will be held on Thursday, January 20, 2010, from 7:30-9:00
3 a.m. at the State Capitol (Rm. 116). Following the reception, the board meeting will
4 begin at 9:30 a.m. in the State Board Room, Grimes Building.

5
6 Beth Myers reviewed Chapter 25: Code of Ethics—Tutoring. The Board has decided
7 not to make any rule changes, but would like to provide guidance on the definition of
8 “solicitation”.

9
10 Pre-filed Bills--The following bills will move forward to the Legislative Service Agency:

- 11 • Human Trafficking
- 12 • Immunities

13
14 The Board received a request from Pomeroy-Palmer Community School inquiring into
15 the possibility of adding them to the Northwest Iowa School Improvement Consortium
16 (NWISIC) for two more years. Merle Johnson moved, with a second by Carol Trueg, to
17 approve the request. **MOTION CARRIED UNANIMOUSLY.**

18
19 Dr. Robinson asked the Board to send him suggestions/ideas regarding the evaluation
20 of Dr. Maurer, Executive Director of the Board. Dr. Robinson will also visit with the
21 Department of Education on their system/process. Further discussion on the
22 evaluation of Dr. Maurer will take place at the January meeting.

23
24 Due to the length of the closed session, Dr. Robinson asked the Board to review the
25 following items listed under Report/Approvals :

- 26 • FY 2011 Board Goals – flexibility issues
- 27 • Board Retreat
- 28 • Code of Iowa Chapter 272.29 Annual Administrative Rules Review Report
- 29 • Code of Iowa Chapter 272.10 Fees Report

30
31 There being no further business, Dr. Robinson asked for a motion to adjourn the
32 meeting. Merle Johnson moved, with a second by Oscar Ortiz. **MOTION CARRIED**
33 **UNANIMOUSLY.** The meeting was adjourned at 2:25 p.m.